

Introduction to Criminal Law

Study Guide notes

1.1 History of South African Criminal Law

The term "the criminal law of South Africa" refers to those rules of law not contained in an Act of parliament or in legislation by some other (subordinate) legislative body.

The rules of substantive criminal law are, for the most part, not contained in any Act of parliament. Stated differently, we can say that our criminal law – including the general principles of our criminal law – is not codified (i.e. summarised in a "code"). (Our criminal procedure, on the other hand, i.e. those rules stipulating how an accused must be brought to trial and how the trial must proceed, is codified in Criminal Procedure Act 51 of 1977).

The common law of South Africa is Roman-Dutch law. By Roman-Dutch law, we mean that system of law that originated in Rome about 2 500 years ago, then spread to Western Europe during and after the Middle Ages, was received in the Netherland from the late thirteenth century up to the end of the sixteenth century, was applied in Cape by the officials of the Dutch East India Company after 1652, and was later accepted and applied in all those colonies and regions of Southern Africa that formed the Union of South Africa in 1910. After the annexation of the Cape by England, Dutch criminal law was also considerably influenced by English criminal law. Our common law was further amended and supplemented by legislation.

1.2 The sources of our criminal law

(1) Legislation. If there is an Act (legislation) dealing with a specific crime or other topic relevant to criminal law, the courts must apply such Act.

As far as legislation is concerned, there is one piece of legislation that towers above all other importance, namely the **Constitution of the Republic of South Africa 1996**. Chapter 2 of the Constitution contains a **Bill of Rights**.

- All rules of law, irrespective of whether they are contained in legislation or in common law, must be compatible with this Bill of Rights.
- If a rule is incompatible with the Bill of Rights, it may be declared null and void.
- Among the rules set out in the Bill of Rights are the following:
 - The right to equality before the law (s9)
 - The right to life (s11)
 - The right to privacy (s14)
 - The right to freedom of expression (s16)
 - The right to freedom of movement (s21)
 - The right to a fair trial (s35)

(2) Common law. The contents of the common law can first of all be found in the primary sources of the common law, that is, **the writings of the Roman-**

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The Struggle Is Real Participant's Guide Nicole Unice, 2018-08-21 What's your struggle? The Struggle Is Real Participant's Guide is a six-session workbook designed for use with The Struggle Is Real DVD Experience sold separately based on the new book by popular speaker and Bible teacher Nicole Unice. A great resource for church small groups, Bible studies, and anyone who's ever felt life just shouldn't be this hard. Raise your hand if you've ever had a day where everything that could go wrong does go wrong: you lock your keys in the car while it's running, lose control with your kids, make a mistake at the office that results in hours more work. And just when you think not one more thing could possibly happen, well, fill in the blank. The struggle is real, friends. It may not be major stuff. Lives are not on the line here. But it makes us feel awful, and then we feel guilty for stressing when other people have real problems that are so much more serious. Yet the fact remains: We live in a world that often feels harder than we think it should be. And so it can be easy to believe the stories we tell ourselves that we're doing it wrong, that we'll be stuck in this place forever, that God doesn't love us. We struggle to practice gratitude, to make godly choices, and to live our daily lives with confidence and contentment. So what can we do? Join Nicole Unice to discover why the struggle is real and what to do about it. In The Struggle Is Real Participant's Guide, Nicole offers practical tools to help you navigate the daily ups and downs and ways to rewrite your struggle into a new God-centered life story. In this 6-week Bible study, you'll learn the common doubts about God's character and intentions that attack our faith. How to live out your Christ-given freedom and break away from condemnation. Principles for transforming your thoughts and experiencing the good life. Includes a leader's guide and access to free online video streaming for 90 days. **How Now Shall We Live?**

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